federal register

Monday
August 24, 1981

Part II

Department of the Interior

Bureau of Land Management

Wildfire Prevention

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 9210

[Circular No. 2490]

Wildfire Prevention

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will establish procedures for the prevention of wildfires on the public lands. The rulemaking is needed to enable the Bureau of Land Management to exercise control over the entry onto, and uses of, the public lands during periods of fire danger. The intended effects of these regulations are to increase human safety and lower the incidence of wildfires on the public lands.

EFFECTIVE DATE: September 23, 1981.

ADDRESS: Any suggestions or inquiries should be sent to: Director (740), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Fred E. McBride (202) 343-7864.

SUPPLEMENTARY INFORMATION: The principal author of this proposed rulemaking is Fred E. McBride of the Division of Fire and Aviation Management, Bureau of Land Management, Washington, D.C., assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Proposed rulemaking was published in the **Federal Register** on July 17, 1980, (45 FR 48054) and invited comments for 60 days ending September 15, 1980. Comments were received from 15 sources representing individuals, business, environmentalists, and Federal and local government agencies. The following summarizes the comments, suggestions and actions taken.

Definitions

"Branding fires" have been added to the definition of "Campfire" under § 9212.0-5(e) as a result of a number of comments.

One comment suggested that the rulemaking should contain a definition of "Restricted area". This term has been added to the definition section as paragraph (i).

Prohibited Acts

It was suggested that appropriate air quality regulatory authorities be given the authority to permit normally prohibited acts on the public lands. Air quality is usually only one factor that an authorized officer must consider before permitting an activity which is normally prohibited. Therefore the permitting authority will remain with the authorized officer.

It was also suggested that the flaring of gas on onshore Federal leases be exempted from prohibited acts. Sections 9212.1(a) has been amended to incorporate this suggestion.

A number of comments suggested that the words "fireman" and "firemen" in § 9212.1(f) be changed to "firefighter(s)". This suggestion has been adopted.

One commenter suggested that § 9212.1(b) would be illegal if it allowed a person to leave a fire before extinguishing it. The wording of this section has been changed so that a person may leave an unextinguished fire only to report it if it is out of control.

Fire Prevention Orders

It was suggested that the final rulemaking specify the conditions under which an authorized officer may issue a fire prevention order. Most closures or restrictions are based on a fire danger rating system which is technical and complex and belongs in a manual rather than a regulation.

It was suggested that incinerators and sanitary land fills used in conjunction with mining and milling operations be exempt from fire prevention orders. Where deemed appropriate by the authorized officer, such exemptions would be included in fire prevention orders as provided under § 9212.1(b)(3).

Several comments suggested that the publicizing of fire prevention orders as required in § 9219.1(b)(4)(5) was too limited, and that a family could drive over 100 miles for recreational use of the public lands only to find them closed. No change has been made as a result of these comments. It is recommended that the recreationist call the local Bureau of Land Management office to find out about possible closures and restrictions on distant public lands.

Some comments indicated that closures should not be placed in effect without first notifying or obtaining the concurrence of elected local officials. As stated in § 9212.0-6, action of the Bureau of Land Management is to complement and support State and local fire prevention actions. Therefore, it is highly unlikely that a Bureau of Land Management closure would be contrary to local needs. In addition fire prevention decisions are sometimes so urgent that extensive consultation is impractical.

Permits

A suggestion was made that a person should be able to obtain a permit to enter and use public lands from a Bureau of Land Management office even though the office does not have direct jurisdiction over the lands involved. The Bureau of Land Management can accomplish this by use of its internal communication system, but it should be remembered that an authorized officer can cancel a permit at any time as provided in § 9212.3(c).

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant effect on a substantial number of small entities under P.L. 96-354.

While this rulemaking contains no information collection requirement, closure of an area under its authority because of the danger of fire will require a user of the public lands in the closed area to obtain a permit to enter and use those lands under other applicable regulations. Under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Group 9200, Subchapter I, Chapter II, Title 43 of the Code of Federal Regulations is amended by adding a new Part 9210 consisting of Subpart 9212 as follows:

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

August 3, 1981.

PART 9210—FIRE MANAGEMENT

Subpart 9212—Wildfire Protection

Sec.
9212.0-1 Purpose.
9212.0-2 Objective.
9212.0-3 Authority.
9212.0-5 Definitions.
9212.0-6 Policy.
9212.1 Prohibited acts.
9212.2 Fire prevention orders.
9212.3 Permits.
9212.4 Penalties.

Authority: 43 U.S.C. 1701 et seq.

Subpart 9212—Wildfire Prevention

§ 9212.0-1 Purpose.

The purpose of this subpart is to set forth procedures to prevent wildfires on the public lands.

§ 9212.0-2 Objective.

The objective of this subpart is to prevent wildfires on the public lands.

§ 9212.0-3 Authority.

This subpart is issued under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

§ 9212.0-5 Definitions.

As used in this subpart, the term:

(a) "Person" means individuals, corporations, companies, associations, firms, partnerships, societies or joint stock companies.

(b) "Authorized officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this subpart.

(c) "Public lands" means any lands and interest in lands owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) Lands located on the Outer Continental Shelf; and

(2) Lands held for the benefit of Indians, Aleuts, and Eskimos.

(d) "fire" means the burning of timber, trees, slash, brush, tundra, grass or other flammable material such as, but not limited to, petroleum products, trash, rubbish, lumber, paper, cloth or agricultural refuse occurring out of doors and includes "campfire" as defined in this section.

(e) "Campfire" means a controlled fire occurring out of doors used for cooking, branding, personal warmth, lighting, ceremonial or esthetic purposes.

(f) "Permit" means authorization in writing by the authorized officer.

(g) "Closed area" means public lands closed to entry by a Bureau of Land Management fire prevention order.

(h) "Wildlife" means any wildland fire that requires a suppression response.

(i) "Restricted area" means public lands restricted as to use(s) by a Bureau of Land Management fire prevention order.

§ 9212.0-6 Policy.

It is the policy of the Bureau of Land Management to take all necessary actions to protect human life, the public lands and the resources and improvements thereon through the prevention of wildfires. Wherever possible, the Bureau of Land Management's actions will complement and support State and local wildfire prevention actions.

§ 9212.1 Prohibited acts.

Unless permitted in writing by the authorized officer, it is prohibited on the public lands to—

(a) Cause a fire, other than a campfire, or the industrial flaring of gas, to be ignited by any source;

(b) Fire a tracer or incendiary device;

(c) Burn, timber, trees, slash, brush, tundra or grass except as used in campfires;

(d) Leave a fire without extinguishing it, except to report it if it has spread beyond control;

(e) Build, attend, maintain or use a campfire without removing all flammable material from around the campfire adequate to prevent its escape;

(f) Resist or interfere with the efforts of firefighter(s) to extinguish a fire;

(g) Enter an area which is closed by a fire prevention order, or

(h) perform any act restricted by a fire prevention order.

§ 9212.2 Fire prevention orders.

(a) To prevent wildfire or facilitate its suppression, an authorized officer may issue fire prevention orders that close entry to, or restrict uses of, designated public lands.

(b) Each fire prevention order shall—

(1) Identify the public lands, roads, trails or waterways that are closed to entry or restricted as to use;

(2) Specify the time during which the closure or restriction shall apply;

(3) Identify those persons who, without a written permit, are exempt from the closure or restrictions;

(4) Be posted in the local Bureau of Land Management office having jurisdiction over the lands to which the order applies; and

(5) Be posted at places near the closed or restricted area where it can be readily seen.

§ 9212.3 Permits.

(a) Permits may be issued to enter and use public lands designated in fire prevention orders when the authorized officer determines that the permitted activities will not conflict with the purpose of the order.

(b) Each permit shall specify—

(1) The public lands, roads, trails or waterways where entry or use is permitted;

(2) The person(s) to whom the permit applies;

(3) Activities that are permitted in the closed area;

(4) fire prevention requirements with which the permittee shall comply; and

(5) An expiration date.

(c) An authorized officer may cancel a permit at any time.

§ 9212.4 Penalties.

Any person who knowingly and willfully violates the regulations at § 9212.1 of this title shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment of not more than 12 months, or both.

[FR Doc. 81-24550 Filed 8-21-81; 8:45 am]

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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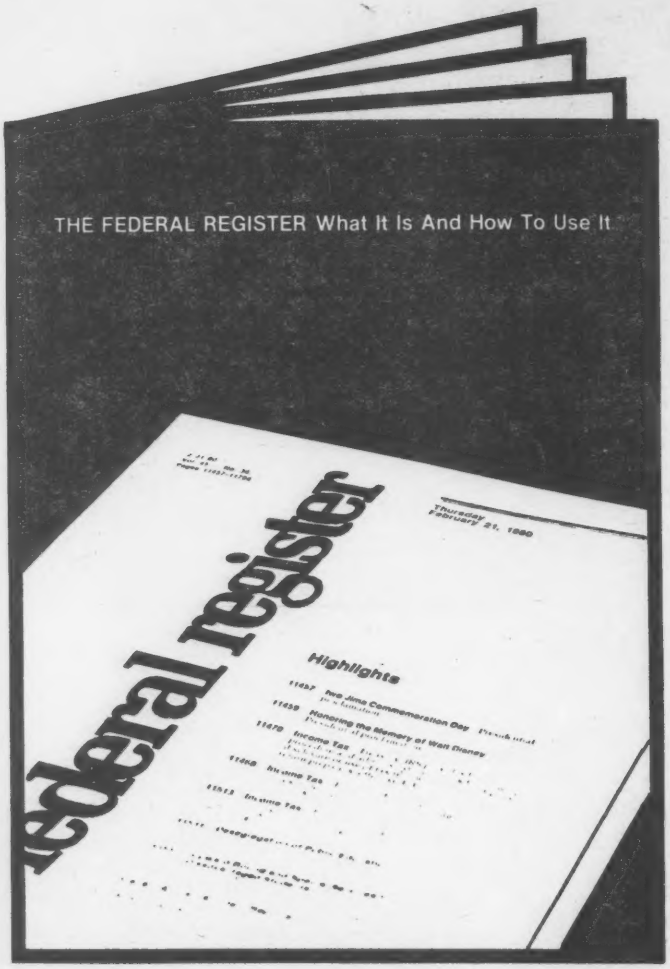

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